

560.0000 LEASED TO GOVERNMENT

*See Government-Owned Property
Local Government-Owned Property
State-Owned Property*

560.0010 Federal Agency. Privately owned property leased to a federal agency is subject to local property taxation, the same as is property leased to the United States government. Regardless of whether the agency is a federal instrumentality, *leased* property, unlike property *owned* by the federal government, is not immune from state and local taxation. To be immune or exempt from property taxation, the federal agency must meet the specific constitutional requirement of property ownership with the agreement between the parties reflecting that the government agency has the full indicia of ownership. C 12/21/2001.

560.0020 Lease-Purchase Contracts. Until such time as the United States takes clear title to property being purchased under the provisions of Public Law 92-313, whereby the U.S. Administrator of General Services is authorized to enter into lease-purchase contracts with private builders; payments are to be credited against the purchase price of the property; and upon the fulfillment of all the terms and conditions of the contract, title to the property is to be transferred to the United States, such property is fully subject to tax. The property should be appraised at the full cash value of the fee-simple rights throughout the term of the lease-purchase contract, it should not be regarded as enforceably restricted, and no division should be made between the leasehold and reversionary interests. The provisions of article XIII A of the California Constitution are applicable to such properties.

In some instances the land is owned by the government but leased to the developer in order to assist him in obtaining financing. Such a lease does not create a taxable possessory interest in the land, for the developer does not retain an exclusive right to possession or beneficial use of the nontaxable publicly owned property. LTA 2/27/79 (No. 79/41).

560.0021 Lease-Purchase Contracts. Property used exclusively by a state or local government agency pursuant to a contract that provides for automatic passage of title to the agency on payment of the agreed rentals should be regarded as beneficially owned by the agency (*Mayhew Tech Center Phase II v. Sacramento County*, 4 Cal.App.4th 497). The constitutional debt limitation on the acquisition of property is not violated by such a contract if its terms do not create a legal obligation to make payments in the future and do terminate the contract upon the failure of the government agency to make payment. C 7/1/92.

560.0040 Personal Property. Absent an applicable exemption, property on the unsecured roll may be assessed to both the lessee and lessor pursuant to Revenue and Taxation Code section 405. Where the lessee is immune from state and local property taxation, the lessor thereby becomes the sole assessee and the person solely responsible for applicable property taxes. The fact that the property is leased by a tax exempt entity does not exempt the property itself from state or local property taxes. However, a lessee under a direct financing lease agreement is considered the "true owner" of the property because the lessor retains legal title only for security reasons. Thus, property subject to such a lease agreement is tax exempt if the lessee is immune from property taxation. In determining whether an agreement constitutes a direct financing lease, the parties' intent, as manifested by the lease terms, is controlling. C 10/14/98; C 8/11/2003.

560.0045 Property Statement. Under a "lease to ownership plan" or a direct financing lease, the federal government lessee is considered to be the owner of the personal property if the federal government has exclusive management, responsibility, and control, and must

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reimburse lessor for applicable sales taxes, use and gross receipts taxes, and personal property taxes. Even though the leased property is immune from property taxes, the private lessor is responsible for filing business property statements for the property under Revenue and Taxation Code section 442(c), unless the property is specifically exempted. C 12/23/2004.